

1 The Honorable Ricardo S. Martinez
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10 UNITED STATES DISTRICT COURT FOR THE
11 WESTERN DISTRICT OF WASHINGTON
12 AT SEATTLE
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15 UNITED STATES OF AMERICA,
16 Plaintiff,
17 v.
18 ABRAHAM MBUGUA,
19 Defendant.
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22 NO. 23-0009RSM
23
24 UNITED STATES SENTENCING
25 MEMORANDUM
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17 **I. INTRODUCTION**

18 Defendant Abraham Mbugua comes before the court on his guilty plea to *Felon in*
19 *Possession of a Firearm*. The government respectfully recommends a custodial sentence
20 of 41 months, the bottom of the advisory Guideline range.

21 Mr. Mbugua came up during a larger investigation into a drug trafficking ring that
22 was moving large amounts of fentanyl pills. When law enforcement executed a search
23 warrant at the apartment he was staying at, he was caught in possession of two firearms
24 and a significant number of counterfeit prescription pills. Mr. Mbugua has a lengthy
25 criminal history that includes violent offenses, drug offenses, and a prior unlawful
26 firearms offense. He has repeatedly violated prior conditions of supervision and was
27 indeed on state DOC supervision at the time of this offense. A significant sentence is

1 therefore necessary to reflect the seriousness of the offense, defendant's history and
 2 characteristics, and the need to protect the public.

3 **II. BACKGROUND**

4 **A. The Pittsburgh Investigation**

5 This case arises out of a wiretap conducted out of the Western District of
 6 Pennsylvania. Among other phones, agents in that District intercepted a phone used by a
 7 drug trafficker out here in Washington named Bryce Hill. This defendant, Abraham
 8 Mbugua, was not intercepted on that wiretap. However, the agents did intercept calls that
 9 appeared to be *about* Mr. Mbugua. One of the intercepted calls was between Hill and
 10 another man, David Carr, during which Hill asked Carr to rent him an apartment in
 11 Seattle. Carr rented an apartment on Westlake, using a fake identity. Of note, during a
 12 later call Carr asked if Hill got his “peeps in” (if Hill’s associate was in the Westlake
 13 apartment). Hill responded that he had sent his person the information and “he’s gonna
 14 go over there in a few hours when it gets dark.” Carr then cautioned Hill “tell your boy
 15 with that spot . . . that you know, keep it low key. The . . . the manager dude stays on the
 16 property.” Hill responded, “A’ight I’ll let bro know. I mean, he should be good, he’s like
 17 me. He usually don’t- we- you know we don’t really- we don’t creep ‘till it’s night time.”

18 Agents then conducted surveillance at the Westlake apartment to try and identify
 19 Hill’s associate, and what he was doing at the Westlake apartment, theorizing that it
 20 might be a stash location. During surveillance they saw a man – later identified as Mr.
 21 Mbugua – going to and from the apartment and driving a Mercedes. At one point, they
 22 asked local law enforcement to try and pull the Mercedes over to identify the driver.
 23 Rather than comply, defendant fled, and investigators made the decision not to pursue.

24 Hill was indicted by WDPA, and agents in this District obtained search warrants
 25 for locations associated with Hill, including the Westlake apartment. Of note, during a
 26 search of the apartment occupied by Hill, investigators recovered more than 20 kilograms

1 of counterfeit fentanyl pills and multiple firearms, one of which was modified to fire fully
 2 automatic.

3 **B. Search Warrant at Westlake Apartment – Arrest of Defendant**

4 One of the search warrants obtained was for the Westlake apartment. Mr. Mbgua
 5 was inside the apartment and was taken into custody. During the subsequent search,
 6 investigators recovered two semiautomatic pistols – a Glock and a Smith and Wesson –
 7 both of which were loaded. The Glock was shoved between the cushions of a couch, and
 8 the Smith and Wesson had apparently slipped between cushions and was on the floor
 9 behind the couch. Inside the same couch, investigators also found two baggies of
 10 unidentified pills, appearing to be counterfeit Xanax bars. Cash and a scale were also
 11 found in the apartment.

12 Agents read Mr. Mbgua his rights, which he waived in writing. He claimed he did
 13 not live there and was only staying that one night at the premises. That was
 14 demonstrably false from surveillance. They then asked him about his Mercedes, and
 15 Defendant denied owning one – but then said something to the effect of “you know I can
 16 drive,” likely a reference to the eluding from earlier in the investigation. He admitted to
 17 “having a problem” with Xanax, but denied selling them – which was inconsistent with
 18 the amount he possessed, which was a distribution quantity. He denied the guns were his.

19 **C. Defendant’s History and Characteristics**

20 Mr. Mbgua has a lengthy criminal history that includes state priors for Robbery 2,
 21 Identity Theft 2, and Assault-2. He has a prior recent conviction for unlawful possession
 22 of a firearm, for which he was sentenced to 41 months. He also has an extensive history
 23 of failing to comply with conditions of supervision and was on DOC supervision at the
 24 time he committed this offense. He has 18 criminal history points, well over the amount
 25 necessary to place him in CHC IV.

1 Mr. Mbgua apparently had a less than ideal childhood – however, while that is
 2 doubtless true, it should be noted that the Probation Office was unable to verify much of
 3 the information provided by the defendant.

4 **III. GUIDELINES**

5 The government concurs with the Probation Officer's calculation of the advisory
 6 Guideline range. Defendant is Total Offense Level 15, and Criminal History Category
 7 VI, resulting in an advisory Guideline range of 41 – 51 months.

8 **IV. RECOMMENDATION AND JUSTIFICATION**

9 The government respectfully recommends a custodial sentence of 41 months, the
 10 bottom of the advisory Guideline range. Mr. Mbgua was caught with two firearms –
 11 while he was on supervision for the same offense of illegally possessing a firearm. He
 12 was sentenced to 41 months for that prior offense in the state system, which happens to
 13 be the bottom of the Guideline range in this matter. Common sense suggests that he
 14 should not get *less* custodial time in this, his second conviction for the same crime.

15 That's particularly true where, as here, Mr. Mbgua clearly possessed these
 16 firearms in connection with a *different* felony offense – drug trafficking. His ties to the
 17 larger drug trafficking case are unclear – but it is clear that he was in possession of
 18 distribution amounts of controlled substances and a scale at the time he was caught with
 19 the firearms.

20 Mr. Mbgua's criminal history is also concerning. In addition to the prior firearms
 21 charge, he has a number of convictions for violent offenses. He has a demonstrated
 22 history of failing to comply with the terms of supervision.

23 Under 18 U.S.C. § 3553(a), the Court is required to consider the nature and
 24 circumstances of the offense; the need to reflect the seriousness of the offense and impose
 25 just punishment; to deter criminal conduct; and to protect the public. When applied to
 26 these facts, these considerations call for a significant sentence.

Balanced against them is the defendant's background history and characteristics. The government has little doubt that his childhood was difficult, although many of the details are unverified. However, those facts are not sufficiently mitigating to justify imposing a sentence of less than the bottom of the range here.

V. CONCLUSION

For the reasons set forth above the government respectfully recommends a custodial sentence of 41 months, to be followed by three years of supervised release.

DATED this 9th day of June, 2023.

Respectfully submitted,

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